

REMARKS/ARGUMENTS

Claims 1-12 and 14-19 were presented for examination and are pending in this application. In an Official Office Action dated March 11, 2005, claims 1-12 and 14-19 were rejected. The Applicants thank the Examiner for examination of the claims pending in this application and address the Examiner's comments below.

Applicants herein amend claims 1, and 12 and no new claims are presently added. These changes are believed not to introduce new matter, and their entry is respectfully requested. The claims have been amended to expedite the prosecution of the application. In making this amendment, Applicants have not and do not narrow the scope of the protection to which the Applicants consider the claimed invention to be entitled and do not concede that the subject matter of such claims were in fact disclosed or taught by the cited prior art. Rather, Applicants reserve the right to pursue such protection at a later point in time and merely seek to pursue protection for the subject matter presented in this submission.

Based on the above amendment and the following remarks, Applicants respectfully request that the Examiner reconsider all outstanding rejections and withdraw them.

Rejection of Claims under 35 U.S.C. §102

Claims 1-12 and 14-19 were rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,691,165 ("Bruck et al."). Applicants respectively traverse these rejections in light of the following remarks and respectfully request reconsideration.

MPEP §2131 provides:

A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegall Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 U.S.P.Q.2d 1051, 1053(Fed. Cir.1987). "The identical invention must be shown in as complete detail as contained in the claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 U.S.P.Q.2d 1913, 1920 (Fed. Cir. 1989).

The claims as currently amended recite features lacking in the applied reference. For example, independent claim 1 recites, among other things, "a gateway machine coupled to the network in communication with the client and separate from the servers."

The Examiner asserts in the USPTO communication dated March 11, 2005, that the prior claim language failed to require the separation of the gateway and servers. As communication between a gateway and server could reside on a single computer, the Examiner cited Bruck et al. against the application. The Applicants submit that the currently amended claims identify patentable subject matter. Claims 1, 12 and 19 in varying language require the gateway and the plurality of servers to be separate devices. The Examiner alleges that element 200 in Bruck et al. shows both the plurality of servers and the gateway machine. As identified in the Applicants' Amendment and Response Pursuant to Office Action Dated May 21, 2004, which is incorporated herein in its entirety by reference, the single element 200 of Brock et al. cannot disclose the separate gateway and servers claimed by the Applicants. Moreover, the single device disclosed in

Brock et al. is inherently incapable of selecting itself as would be required if Brock et al. read on the Applicants' invention.

For at least these reasons, claims 1 and 12 are not anticipated by Brock et al. Claims 2-8 and 11, and claims 14-16 and 18, depend from claims 1 and 12 respectively. For at least the same reasons mentioned above, claims 2-8 and 11, and claims 14-16 and 18, are not anticipated by Brock et al. The Applicants accordingly request the rejections of claims 1-8, 11-12, 14-16 and 18 be withdrawn and the claims reconsidered.

Rejection of Claims under 35 U.S.C. §103

Claims 9, 10, 17 and 19 were rejected under 35 U.S.C. §103(a) as being unpatentable over Bruck et al. as applied to claim 1 in view of U.S. Patent No. 5,956,489 ("San Andres et al."). The Applicants respectfully traverse these rejections in light of the following remarks.

MPEP §2143 provides:

To establish a prima facie case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teaching. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations.

With respect to claim 19, the Examiner concedes that Brock et al. is silent with respect to queuing the request in the intermediary server. As aforementioned, Brock et al. is also silent with respect to the intermediary

server and the network connected server being separated. San Andres et al. appears to show a transaction replication system in which client requests are directed to a plurality of gateways that, in turn, communicate with application servers over a LAN (or multiple LANs). San Andres et al. does not teach or suggest load balancing across multiple channels or multiple LANs as claimed by the Applicants. In addition and like Brock et al., San Andres et al. fails to teach or suggest "an intermediary server receiving requests for server access from a plurality of sources, wherein the intermediary server is in a separate address domain from the network connected server" as is recited in claim 19.

"The prior art reference (or references when combined) must teach or suggest all the claim limitations." MPEP 2143. Brock et al. as applied to claim 1, in view of San Andres et al. does not teach or suggest all of the claimed limitations recited in claim 19. Accordingly, the Applicants respectfully request the rejection be withdrawn and the claims reconsidered.

With respect to claims 9, 10 and 17, as previously mentioned, Brock et al. does not teach or suggest a gateway separate from a plurality of servers. San Andres et al. is also silent with respect to this limitation. As Brock et al. in view of San Andres et al. do not teach or suggest all of the claim limitations of claims 9, 10 and 17, the Applicants respectfully request the rejection of these claims be withdrawn and the claims reconsidered.

In view of all of the above, the claims are now believed to be allowable and the case in condition for allowance which action is respectfully requested. Should the Examiner be of the opinion that a telephone conference would expedite the prosecution of this case, the


Serial No. 09/835,838
Reply to Office Action of March 11, 2005

Examiner is requested to contact Applicants' attorney at the telephone number listed below.

A Petition for a Two Month Extension of Time with the \$225 fee is included with this Amendment. No additional fee is believed due for this submittal. However, any fee deficiency associated with this submittal may be charged to Deposit Account No. 50-1123.

Respectfully submitted,

August 1, 2005


Michael C. Martensen, No. 46,901
Hogan & Hartson LLP
One Tabor Center
1200 17th Street, Suite 1500
Denver, Colorado 80202
(719) 448-5910 Tel
(303) 899-7333 Fax